82-1696

In The
SUPREME COURT OF THE UNITED STATES
April Term, 1983

NO.

BENJAMIN A. RASKY,
Plaintiff-Appellant,
Petitioner,

vs.

CITY OF CHICAGO, a Municipal Corporation, WILLIAM R. QUINLAN, individually and as Corporation Counsel, JOHN W. McCAFFREY and JAMES MURPHY, all individually and as Assistants Corporation Counsel, and the Hon. RICHARD M. JORZAK and the Hon. WILLIE M. WHITING, respectively, individually and as Judges of the Circuit Court of Cook County, Illinois,
Defendants-Appellees,
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE 7TH CIRCUIT, CHICAGO, ILLINOIS

BENJAMIN A. RASKY, Pro Se
Plaintiff-Appellant, Petitioner
5104 West Weber Lane
Skokie, Illinois 60076
Attorney for Petitioner

QUESTIONS PRESENTED

1. Whether Plaintiff was denied Due Process of Law as provided in Section 1 of Amendment 14 of the U.S. Constitution as a Result of being precluded from receiving a trial on the merits of his claim in 4 Counts of his 2nd Amended Complaint seeking damages for violation of his Civil Rights under Title 42 of U.S. Code, Sec. 1983, and otherwise, as set forth in his Jurisdictional Statement, in granting the Motion of the City Defendants to dismiss his Complaint, and the Motion of the Cook County Defendants (Judges Jorzak and Whiting) for judgment on the pleadings on the ground that the Complaint failed to state a claim upon which relief can be granted.

2. And whether the Court erred in denying Plaintiff leave to file a 3rd Amended Complaint

instanter, submitted by him in his Motion for Reconsideration of the Order of Dismissal of his 2nd Amended Complaint, as granted by the District Court, to allege the finding of the Court in the Order of Dismissal

"that the City was acting pursuant to an official policy or custom which caused the Constitutional deprivation"

and for no other reason so as to meet the Court's requirement in setting forth a sufficient Complaint as Plaintiff inferred from the decision, other than setting forth in greater detail in the 3rd Amended Complaint the unusual hostility displayed against him by the Defendants in support of his claim under Section 1983.

3. And whether the United States Court of Appeals erred in affirming the Decision of the District Court.

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In The
SUPREME COURT OF THE UNITED STATES
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NO.

BENJAMIN A. RASKY,
Plaintiff-Appellant,
Petitioner

vs.

CITY OF CHICAGO, a Municipal Corporation,
Et Al (Same as on Cover),
Defendants-Appellees,
Respondents

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE 7TH CIRCUIT,
CHICAGO, ILLINOIS

To the Justices of the Supreme Court of the United States:

Petitioner, Benjamin A. Rasky, respectfully prays that a Writ of Certiorari issue to review the judgment of the United States Circuit Court of Appeals for the 7th Circuit of November 16, 1982, affirming the Orders

of the United States District Court for the Northern District of Illinois, Eastern Division, dismissing Plaintiff's claim in his 2nd Amended Complaint against all Defendants in this suit on their Motions on the Pleadings only, and denying him leave to file a 3rd Amended Complaint, no trial having been had. Plaintiff's 2nd Amended Complaint set forth 4 Counts seeking damages for violation of his Civil Rights under Title 42 of the U.S. Code, Section 1983, and otherwise as set forth in his Jurisdictional Statement, as did the Proposed 3rd Amended Complaint with the additions as set forth in "Questions Presented" herewith.

OPINIONS BELOW.

The opinion of the United States Circuit Court of Appeals is unpublished, and reproduced in Appendix "A" to this Petition.

Its Judgment was entered on November 16, 1982 and the Petition for Rehearing presented by the Plaintiff-Appellant was denied on January 13, 1983, reproduced in Appendix "B" to this Petition.

JURISDICTION

The District Court had jurisdiction pursuant to Amendment 14 of the U.S. Constitution and Title 42 of the U.S. Code, Sec. 1983, commonly known as the Civil Rights Act of 1871, also Section 1988 thereof and Title 28 of the U.S.C.A., Sec. 1343 thereof. The occurrences took place in the 7th Judicial District. The Jurisdiction of this Court rests on 28 U.S.C. Sec. 1257(3).

PARTIES

All parties to this proceeding are set forth on the cover.

STATEMENT OF THE CASE

On June 3, 1980, Plaintiff filed a Complaint for damages against the Defendants in 4 Counts for violation of his Civil Rights. The first 2 Counts were for denial of Motions to implead/under the City of Chicago Ordinances, tenants in Housing Court Proceedings referring to buildings owned by Plaintiff, as Parties Defendants' by reason of constant interference, vandalism, destruction and nonpayment of rent by them; the 3rd Count for a denial of Plaintiff's Motion to implead Contractors as Parties Defendants, who had fraudulently failed to make necessary repairs as contracted to bring a building into proper repair so as to comply with Court's Orders with the result that the Court ordered the building vacated, and the 4th Count for the entry of an Ex Parte Judgment against him on January 10, 1980 for $7,600.00 for housing vio-

lations long after he had sold the buildings and where there had been no service of summons on him, being returned by the Sheriff "not found."

For several years before the proceedings, Plaintiff encountered great difficulties in trying to operate the buildings, furnished apartment hotels, for they were in a changing neighborhood in Chicago. They were located at 5726-8 Winthrop, 5623-5 Winthrop, and 5309 Winthrop (NE corner Berwyn). Great interference and vandalism by tenants and others, destruction, frequent incendiary fires, building invasions by squatters through tenants with takeover by criminal elements with hardly any income, (finally none), to meet expenses took place.

Any improvements made were sabotaged. Attempts at eviction failed, for they managed to get refuge in remaining tenants' apartments;

the managers and janitors feared the tenants and squatters. The destruction was so great that, as an example, at 5726 Winthrop, Plaintiff spent over $25,000 to rehabilitate it, which had been wrecked in 1973-4. On completion, the Housing Court case was dismissed for compliance on Sept. 23, 1976. One month later the building was wrecked again. The other buildings suffered the same.

Then too, Plaintiff encountered problems getting contractors to make repairs as needed. Some of those hired defrauded Plaintiff in taking money without doing the necessary work in correcting building violations ordered.

The Ordinances of the City of Chicago in the Chicago Building Code (Chapter 78-18) provides for "Responsibilities of Owners and Occupants"; Sec. 18.1 referring to "Responsibilities of Occupants" provides keeping the unit that he occupies, also plumbing and

and other fixtures that he controls in a sanitary and safe condition, to use reasonable care in the proper use thereof and other provisions all as set forth in the Ordinance. Compliance with the Ordinance by the tenants was necessary. All is set forth in Plaintiff's 2nd Amended Complaint (Appendix "E").

In an effort to correct said problems, Plaintiff filed Motions in the Housing Court, first (Exhibit 2 in Count I) for 5726-8 Winthrop, then for 5309 Winthrop (Exhibit 3 in Count II) to implead tenants as Defendants who had interfered with Plaintiff's efforts in operating the buildings, and then (Exh. 4 in Count III) to implead defrauding contractors in not bringing 5625 Winthrop in proper repair as contracted. The Motions in the first 3 Counts were opposed by Defendants Judge Jorzak, City

and Corporation Counsel and denied. The Judge then ordered the buildings vacated. As a direct result, Plaintiff was compelled to sacrifice the buildings, one, 33 units abandoned in mortgage foreclosure where only $43500 remained due, and the other 2, 63 and 62 units disposed of at a loss of over $533,000.

The 4th Count was for damages for the entry of an Ex Parte Judgment against Plaintiff by Defendant Judge Whiting for $7600 on Jan. 10, 1980 for housing violations occurring long after he had sold the building on Jan. 17, 1977 and where no prior service of summons was ever had on him, the Court having no Jurisdiction.

Although the Housing Court has a Court Reporter in attendance taking testimony, no Transcripts were taken of the proceedings, although requested by Plaintiff. No Orders were entered or available. Although the Court in its

Opinion (Appendix "A", page 7) stated that the State Court's files (Half Sheets) contained such information, that was not true for that practice (Half Sheets) was created later. Accordingly, no records of the proceedings were available to Plaintiff for use in an Appeal in the State Courts. Then again the Court heard the Hearings in all 3 Cases in the Housing Court as though they were consolidated as one Case although that was not so. The Proceedings were controlled completely by the Corporation Counsel.

All of the Complaints related to and contained the same facts, the first 2 being amended only to change some parties and nothing else. In his Motion of Jan. 28, 1981 to vacate the Order of Dismissal of his 2nd Amended Complaint on Dec. 5, 1980, and for leave to file a 3rd Amended Complaint instanter, he did not

present it to bypass the presentation of his Memorandum for Reconsideration of the Order of Dismissal but to supplement it. It was in effect the 1st Amended Complaint, and should have been so considered by the Court. Plaintiff was entitled to file it as a matter of course and it should have been so considered by the U.S. Court of Appeals and not as set forth in Page 4 of its decision of Affirmance (Appendix "A").

It was presented to allege the findings of the Court (Appendix "A" page 4)

"that the City was acting pursuant to an official policy or custom which caused the constitutional deprivation,"

so as to meet the Court's requirements in setting forth a sufficient complaint even though Section 1983 does not set forth "official policy," as Plaintiff inferred from the Decision. In addition the 3rd Amended Complaint merely set forth in greater detail the unusual hostility displayed against him by the Defendants, in support of his claim under Sec. 1983.

It shows how they had singled him out in their prosecution of him as a scapegoat for all furnished apartment hotel building owners to make an example of him to the community without regard to the circumstances. They attempted to give an impression that they were correcting great social problems, although created by unbridled vandalistic wreckage without fault on the part of the Plaintiff, and without income to meet such wreckage.

The harsh treatment received by the Plaintiff from the Court Personnel amounted to a denial of basic rights to which he was entitled. Best evidence of the foregoing was when he asked for consideration and relief from harsh orders as fines or Motions to vacate, he was confronted by Defendant McCaffrey (Ass't Corporation Counsel), without any basis whatsoever:

> "I think Mr. Rasky, before he can come before the Court with clean hands and present argument to this Court, he should pay the fine which was imposed".

Or on whether Plaintiff was sworn as a witness in argument, these remarks from Defendant Judge Jorzak:

> "I can only come to one conclusion, Mr. Rasky, that your statements even where they are made under oath, lack some credibility";

Or when Plaintiff asked for 30 days to complete the work, Judge Jorzak:

> "Do you want 30 days in the House of Correction or the County Jail or what? That is what is going to happen if this building isn't vacated".

Or where Plaintiff asked to implead the two defrauding contractors as Defendants, in denying the Motions, Judge Jorzak said:

> "I don't care what you do, but you are not going to clutter up this law suit with some spurious claims against contractors".

The vandalism, destruction, invasion by criminal elements was so great that Plaintiff

called the City Police for help. They refused to enter the buildings to eliminate the problems, merely passing by the exterior, and directed Plaintiff to hire a Security Guard. The Security Guard hired, because of the circumstances, turned out to be another criminal. On Plaintiff's attempting to correct the Guard, he was assaulted by the Guard. That was at 5726 Winthrop which was wrecked within 1 month after the Housing Court suit was dismissed by reason of compliance.

Thereupon, Plaintiff collapsed, entered a hospital where he underwent open heart surgery on November 24, 1976. On his release, he was unable to continue further, and as previously mentioned, sacrificed the buildings.

REASONS FOR GRANTING WRIT.

Petitioner respectfully submits that the U.S. Circuit Court of Appeals erred in affirming the decisions of the District Court (1) which dismissed his 2nd Amended Complaint in granting the Motions of the City Defendants to Dismiss and of the Cook County Defendants (Judges Jorzak and Whiting) for judgment on the pleadings on the ground that the Complaint failed to state a claim upon which relief can be granted, also denying Plaintiff's Motion for Reconsideration of the Order of Dismissal, thereby denying Plaintiff Due Process of Law as provided in Section 1 of Amendment 14 of the U.S. Constitution as a result of being precluded from receiving a trial on the merits of his claim in 4 Counts seeking damages for violation of his Civil Rights under Title 42 of the U.S. Code, Sec. 1983 and otherwise; and

(2) which denied him leave to file a 3rd Amended Complaint instanter, submitted by him with his Motion for Reconsideration of the Order of Dismissal of his 2nd Amended Complaint, to allege the finding of the Court therein

"that the City was acting pursuant to an official policy or custom which caused the Constitutional deprivation",

and for no other reason so as to meet the Court's requirement in setting forth a sufficient Complaint as Plaintiff inferred from the decision, other than setting forth in greater detail in the 3rd Amended Complaint the unusual hostility displayed against him by the Defendants, in support of his claim under Section 1983.

The Complaints, including both the 2nd and 3rd Amended Complaints, alleged

sufficient facts to plead a cause of action, alleging among other items the wording of Sec. 1983 in Paragraph 2 of said Counts and elsewhere. The Illinois Civil Practice Act, Chap. 10, Sec. 42(2) provides:

"No pleading is bad in substance which contains information as reasonably informs the opposite party of the nature of the claim or defense which he is called upon to meet".

The Defendants were reasonably informed of the nature of the claim which they were called uppn to meet.

Since all of the Defendants have filed Motions to Dismiss Plaintiff's Complaint, although the Defendant Judges designated theirs as Motion for Judgment on the Pleadings (the same in law),

"their motions to dismiss the complaint admits the truth of all well pleaded facts in the pleading of the opposite party" (Plaintiff's Complaint).

Brown v. Gill 343 Illinois App. 460 (1961).

for the purpose of this hearing to include

the allegations of denial of Motions to implead in Counts I and II (Paragraphs 12) destructive tenants under the City Ordinance as parties defendant, Plaintiff alleging "although beyond authority and judicial discretion the Order is not entered" (referring to a lack of any record whatsoever to show the refusal to enter the orders to implead those tenants as defendants), not even being able to get a Transcript of the Record for Judicial Review; similarly in Count III, Para. 14, the refusal to implead defrauding Contractors as Defendants without any Orders thereof, and in Count IV wherein the Defendants City, Corporation Counsel and Judge Whiting had entered an Ex Parte Judgment against Plaintiff on Jan. 10, 1980 in the sum of $7,600 without any prior service of summons on him, said summons having been returned "not found" by the Sheriff, for

alleged violations occurring long after Plaintiff had sold the building, the true owners not being made Defendants although their identity were known by the Defendants, and wherein the Court was wholly without Jurisdiction. This was but further evidence of their intense hostility towards Plaintiff, and conduct in violation of his Civil Rights.

Since the proceedings were filed by Plaintiff Pro Se for damages for violations of his Civil Rights as hereinabove set forth under Title 42 of the U.S. Code, Sec. 1983, commonly known as the Civil Rights Act of 1871, and otherwise as set forth in the Jurisdictional Statement (Page 3 hereof, it is in order to recite Section 1983

"Every person, who under color of any statute, ordinance, regulation or usage of any state or territory, subjects or causes to be subjected, any citizen of the U.S. or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured

by the Constitution and Laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress".

Incidentally, the District Court in its Decision (Appendix "C", page 4) erred in its ruling that in setting forth a good claim upon which relief can be granted,

"Plaintiff ignores the fact, however, that a valid claim against the City must be supported by an allegation that the City was acting pursuant to an official policy or custom which caused the Constitutional deprivation, the City cannot be liable on the basis of respondeat superior",

for such ruling of official policy or custom" is not contained in or a part of Section 1983. Such wording was not necessary accordingly to have been set forth in the Complaint in order to set forth a good claim, although its intent was mentioned therein by Plaintiff. Nevertheless, in order to present a Complaint deemed acceptable to the Court, he set forth said language (the Court's Decision) in his 3rd Amended Complaint.

The 3rd Amended Complaint was in effect the 1st Amended Complaint, as set forth in Pages 9 - 13 hereof, being the first contested pleading, and should have been so considered by the Court, and Plaintiff should have been entitled to file it as a matter of course: it was presented to meet the District Court's Requirements in setting forth a cause of action by reciting it as being a matter of "official policy" of the City and the other Defendants, as Plaintiff inferred from the Decision. In addition, he set forth in greater detail the unusual hostility displayed against him by the Defendants, in support of his claim under Sec. 1983.

Contrary to the Circuit Court of Appeal's decision (Appendix "A" Pg. 3) in affirming denial of granting Plaintiff leave to file the 3rd Amended Complaint (Exhibit A Pg. 3), Moore's Federal Practice Vol. 3 Chap. 15 on Pg. 79 referring to Amended and Supplemental Pleadings, Rule 15.07 (2) Operation of Rule Cites:

"It was unclear from the record the sequence

of the following events: (1) Plaintiff's filing a motion to amend and the Court's denial of it, (2) defendant's filing a motion to dismiss . . . and (3) the grant of summary judgment. The court of appeals therefore refused to affirm the district court's denial of the motion to amend. The controlling standard of Rule 15 (a) entitles a party to file an amended pleading once prior to the adverse party's serving a responsive pleading, which does not include a motion to dismiss or for summary judgment. Here plaintiff may have had the right to amend prior to the court's acting . . . And even if he were not entitled to amend, the court's denial would require some justification . . . The present record did not disclose the basis for the denial and the case was remanded for explanation or consideration."

McDonald v. Hall (CA 1st, 1978) 579 F. 2d 120.

Other authorities supporting this position are:

Securities and Exch. Comm. v. Universal Service Assn., 106 F. 2d 232 etc., vol. 42 Moore's Fed'l Practice Sec. 243; U.S. v. Schefrin, 14 R.F.D. 462; and Sink v. Mutual Life Ins. Co. of N.Y., 56 F. Supp. 306 (1944), those cases holding amendment in order when "the ends of justice will be promoted by amendment" and where "it is a substitute for the original pleading and relates to the same facts that existed when suit was started."

The Circuit Court of Appeals accordingly erred in affirming District Court's Decision denying Plaintiff leave to file a 3rd Amended Complaint Instanter.

The hostility of the Defendants towards

Plaintiff, particularly as set forth in Pages 9-13 hereof are set forth with greater specificity in the 3rd Amended Complaint, but are also set forth sufficiently in the 2nd Amended Complaint, and the previous ones, and disclose such prejudice and animosity towards Plaintiff amounting to a denial of basic rights to which he was entitled, and are a violation of due process and equal protection of the laws guaranteed by the 14th Amendment, Sec. 1 of the U.S. Constitution.

Such conduct by the Defendants in the mistreatment of Plaintiff is set forth in the following cases:

"Howard v. U.S. 372 F 2d 294 (1967): "Due Process is denial where the procedure tends to shock the sense of fair play," and Buder v. Bell 306 F 2d 71 (1962):"Denial of due process is conduct that shocks conscience and offends sense of justice."

The Court of Appeals in its decision (Appendix "A" Page 5) states:

In Stump v. Sparkman 435 U.S. 349 the Supreme Court noted that a "judge will not be deprived of immunity only when he has acted in the clear absence of all jurisdiction."

thereby affirming the order of dismissal as to

Judge Jorzak; and then as to Judge Whiting states

"Immunity is lost only if the Judge knows that he or she lacks jurisdiction or the Judge acts in the face of a clearly valid statute or case law expressly depriving the judge of jurisdiction. Id. Here, because the appellant alleges neither that Judge Whiting acted knowing that she lacked jurisdiction over the appellant nor that any clearly valid statute or case law expressly deprived Judge Whiting of personal jurisdiction over him, the district court's dismissal of the complaint against her must also be affirmed

The Court erred in its decision affirming the dismissal of the Judges and Court Prosecutors. Taking up the Whiting dismissal, the following cases are particularly applicable to Judge Whiting's judgment herein.

"The Court had no jurisdiction over a defendant on whom no service was had and who made no appearance."
Holmes v. Nelson 148 Ill. App 554 (1909)

Unless he acts in clear absence of all jurisdiction Judge has absolute immunity from liability or damages.
Almon v. Sandlen 603 Fed 2d 503 (1979) also
Crowe v. Lucas 595 F 2d 985 (1979)

Clearly Defendant Whiting had no immunity here for Plaintiff had not been served with summons and had not filed an appearance when

the Ex Parte Judgment was entered against him for $7,600.00.

Then again referring to Defendants Judge Jorzak and the Prosecutors, total absence of jurisdiction is not the only reason for judicial liability under the Civil Rights Act.

"Judges are not absolutely immune from liability to damages under Civil Rights Act."
Peterson v. Stanczak 48 F.R.D. 426 (1969)

"Privilege of absolute judicial immunity should be applied sparingly ..., since to give too wide a scope of protection ... would effect a judicial repeal of congressional purpose to make liable everyone who under color of state law abridges a citizen's rights."
McCray v. State of Maryland 456 F 2d 1(1972)

"State Trial Judge and Prosecutors were immune from civil rights liability where plaintiff made no allegations of fact which would support finding that they acted outside scope of their judicial or prosecutorial duties."
Martinez v. Chavez 574 F 2d 1043 (1972) also
Muller v. Wachtel 345 F Supp 160 (1972)

Plaintiff in his Complaint made allegations of fact that the actions and orders of the Defendants were beyond the scope of their authority and judicial and prosecutorial discretion.

There are further exceptions (referring to lack of Judicial Immunity). Application of the doctrine of judicial immunity is restricted to the following areas: (1) ... when judges are faced with suits involving their judicial as opposed to their ministerial or administrative duties, and (2) ... when officials are sued for damages. "Ex Parte Virginia 100 U.S. 399 (1879), quoted in "Doe v. Richards 399 F Supp 553 (1975) first noted this distinction as to immunities:

"Whether an act is judicial as opposed to ministerial or administrative is to be determined by the character of the act and not the actor."

The Court held in those cases that the Chief Judge, as an administrative head, and the Judge who did not permit Blacks to Jury Service were not performing Judicial, but ministerial functions, and had no immunities.

Similarly, here the Defendant, Judge Jorzak, was only performing a ministerial act and not a judicial act (requiring use of discretion) when asked to implead tenants, "Occupants" in Counts I and II, as Defendants under provisions of the Chicago City Ordinance in the Housing Code (Exhibit 1 of the Complaint) as was the Plaintiff as "owner" impleaded as a Defendant. The dismissal of Judge Jorzak was accordingly an error. He was only performing a ministerial and not a judicial act in the Housing Court proceedings to implead Defendants. There was no discretion required.

Frame v. Yenni 347 So. 2nd 309 (1977) cited in Adden v. Middlebrooks 79-1810 defines a ministerial act as:

"one in which a persom performs in a given statement of facts, in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of his own judgement, upon the propriety of acts being done."

The Court of Appeals erred in its Opinion on Page 6 in affirming the decision of the District Court dismissing Plaintiff's 2nd Amended Complaint and denying him leave to file a 3rd Amended Complaint instanter, stating

"The Appellant's 2nd Amended Complaint simply does not allege any policy or custom of the City of Chicago which caused a constitutional deprivation. Were we to consider the Appellant's 3rd Amended Complaint, it would be equally deficient, since it merely makes a conclusory allegation and does not contain the "highly specific factual averments" required to defeat a motion to dismiss in Civil Rights Act cases."

On page 10 hereof, Plaintiff alleged that he presented a 3rd Amended Complaint to allege the findings of the Court "that the City was acting pursuant to an official policy or custom which caused the constitutional deprivation" so as to meet the Court's requirements in setting forth a sufficient complaint even though Sec. 1983 does not set forth "official policy", as Plaintiff inferred from the Decision.

The Court's Decision is further reason why Plaintiff should have been given leave to file a 3rd Amended Complaint in accordance with the decision of Securities and Exchange Commission case (Page 21 herein) that Amendment is in order when the ends of justice is promoted thereby. The "highly specific factual averments" are set forth in the 3rd Amended Complaint, and was set forth in the 2nd Amended Complaint to allege a good cause of action. Both complaints set forth sufficient issues of fact which should have sufficed the Court in permitting the case to be heard at a trial on the merits thereof.

The claimed immunity of the Defendant City of Chicago from liability for violation of the Plaintiff's Civil Rights under Section 1983 whereby the Court of Appeals affirmed the District Court's dismissal of Plaintiff's Complaint was erroneous. Plaintiff's argument is supported by Owen v. City of Independence 100 S.Ct. 1398 (1980):

The Defendant City of Chicago accordingly had no immunity whatsoever.

The Court in OWEN on Page 1401 Held:

"A municipality has no immunity from liability under Sec. 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability."

The Court further held on Page 1423:

"After today's decision, municipalities will have gone in two short years from absolute immunity under Sec. 1983 to strict liability."

The Circuit Court of Appeals erred in any event in affirming the Decision of the District Court dismissing Plaintiff's 2nd Amended Complaint and denying him leave to file a 3rd Amended Complaint instanter.

CONCLUSION

WHEREFORE, Plaintiff-Appellant, the Petitioner herein, respectfully prays that this Court's Writ of Certiorari issue and the Judgment below be reversed, that Plaintiff be given leave to file his 3rd Amended Complaint instanter, or in the alternative, the 2nd Amended Complaint be reinstated, and that the Cause be remanded to the District Court for trial.

Respectfully submitted,

BENJAMIN A. RASKY, Pro Se
Attorney at Law
Plaintiff-Appellant,
5104 West Weber Lane
Skokie, Illinois 60077
679-8992

Petitioner

APPENDIX A-

UNITED STATES COURT OF APPEALS

For the Seventh Circuit

(Submitted November 1, 1962)*

November 16, 1982

Before

Hon. Harlington Wood, Jr., Circuit Judge
Hon. Richard D. Cudahy, Circuit Judge
Hon. Jesse E. Eschbach, Circuit Judge

BENJAMIN A. RASKY,	) Appeal from the
	) United States District
Plaintiff-Appellant,	) Court for the Northern
	) District of Illinois,
No. 81-2046 Vs.	) Eastern Division,
CITY OF CHICAGO, et al.,	) No. 80 C 2821
	)
Defendants-Appellees,	) JOHN POWERS CROWLEY, Judge.

O R D E R

The issue on appeal is the liability under 42 U.S.C. $1983 of the City of Chicago, city corporation counsels and state judges for damages allegedly resulting from their actions in opposing and denying the appellant's motion to implead parties defendant in actions before the Cook County Circuit Court.

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* After preliminary examination of the briefs, the Court notified the parties that it had tentatively concluded that argument would not be helpful to the Court in this case. The notice provided

that any party might file a "Statement as to Need for Oral Argument." See F.R.A.P. 34(a); Circuit Rule 14(f). Having considered the plaintiff-appellant's Statement as to Need for Oral Argument," this Court has concluded that oral argument is not necessary. Accordingly, this case has been submitted for decision on the briefs and record.

I

The facts that underlie this appeal are somewhat complicated as they involve the progress of appellant's section 1983 lawsuit in federal court as well as three state court lawsuits. Nevertheless, the pertinent facts may be summarized as follows:

The pro se appellant, himself an attorney, was at one time the beneficial owner of three apartment buildings in Chicago. In 1973 and 1974 the appellee City of Chicago, through its corporation counsel and his assistants, brought three actions in the Cook County Circuit Court against the appellant, alleging building code violations. In these proceedings the appellant attempted to implead as parties defendant certain of his tenants and two contractors. In sum, the appellant averred that a number of his tenants were delinquent in their rentals and were committing acts of vandalism in his buildings making it difficult

to satisfy the requirements of the building code, and that the contractors hired to bring one of his buildings into compliance with the code "performed in a poor unworkmanlike manner". The motions were opposed by appellee Assistant Corporation Counsel McCaffrey and were denied by appellee Judge Richard H. Jorzak. The appellant claims that as a result of the denial of his motions to implead he was forced to sell two buildings at a loss and that he lost the third building in a foreclosure sale.

The appellant also claims damages arising out of the alleged ex parte judgment entered against the appellant in one of the state court suits by the appellee Judge Willie M. Whiting on May 1, 1980, in the amount of $7,600 plus costs. Appellee Assistant Corporation Counsel James Murphy opposed appellant's motion to vacate the judgment and appellee Judge Whiting denied the motion. The appellees deny that the judgment was ex parte, Brief of appellees Jorzak and Whiting at 4, and while the record is opaque, the judgment apparently was later vacated.

The appellees City of Chicago and William R. Quinlan are sued solely in their respective capacities as the employer and supervisors of the appellees McCaffreyyand Murphy.

In sum, the appellant contends that the appellees' actions in opposing and denying his motions to implead parties defendant in the circuit court actions and in entering a judgment against him and opposing and denying his motion tovacate the judgment violated his rights under the Fourteenth Amendment to the United States Constitution; the appellant does not specify whether the actions violated his rights under the Due Process or Equal Protection clauses of that amendment.

In addition to the relatively complex fact situation set out above, a recitation of the procedural history in the district court is also necessary in order to evaluate the appellant's arguments on appeal.

The appellant filed his first complaint in this section 1983 action on June 3, 1980. On July 10, 1980, the appellees Judge Richard H. Jorzak and Judge Willie M. Whiting (the Cook County appellees) filed a motion for judgment on the pleadings. The appellant filed a second amended complaint on August 27, 1980. The appellees City of Chicago, William R. Quinlan, John W. McCaffrey and James Murphy (the Chicago appellees) filed a motion to strike and dismiss the second amended complaint on

September 18, 1980. On December 5, 1980, the district court court granted the Chicago appellees' motion to dismiss and treating the Cook County appellees' motion for judgment on the pleadings as a motion to dismiss also granted that motion. In its memorandum opinion and order the district court held that the individual defendants were absolutely immune from liability under § 1983 and that the complaint had failed to state a valid claim against the appellee City of Chicago because it failed to allege that the city was acting pursuant to an official policy of custom that caused the constitutional violations, a requirement imposed by Monell V. Department of Social Services of the City of New York, 436 U.S. 658 (1978). At the December 5 hearing in which the district court dismissed the complaint the appellant made an oral motion for reconsideration and was given until February 6, 1981 to file a supporting memorandum. Nevertheless, judgment was entered on December 9, 1980. On January 28, 1981, notwithstanding the court's permission to file a memorandum in support of his oral motion for reconsideration, the appellant moved to vacate the dismissal order and moved for leave to file a third amended complaint. The district

court denied both motions on the ground that the defects present in the second amended complaint were also present in the third amended complaint. The matter of the reconsideration of the second amended complaint was apparently continued, and on February 26, 1981 the appellant filed a memorandum in support of his December 5, 1980 oral motion to reconsider. On May 28, 1981 the district court denied appellant's motion for reconsideration. On June 26, 1981, the appellant filed his notice of appeal to this court from the district court's orders of December 5, 1980 Dismissing the complaint), January 28, 1981 (denying motion to vacate and motion for leave to file third amended complaint), and May 28, 1981 (denying motion to reconsider).

II

As a preliminary matter, this Court lacks jurisdiction to hear the appeal of the district court's order of January 28, 1981 denying the appellant's motion to vacate and motion for leave to file a third amended complaint. Both motions are motions to alter or amend a judgment under F.R.C.D. 59(e). 3 Moore's Federal Practice §15.07(2) at 15-51 (2d Rev.Ed. 1982).

Such motion must be served not later than 10 days after judgment, F.R.C.P. 59(e). Judgment was entered by the district court on December 9, 1981. These motions, filed forty days after entry of judgment, are simply too late.

Even if we were to reach the merits of the appeal of the January 28, 1981 order, the result would not be the same. With respect to the motion to file a third amended complaint, under F.R.C.P. (15(a) a party is entitled to only one amended pleading as a matter of course. Subsequent amendments are permitted only by leave of court or by written consent of the adverse party. The determination of appropriateness of additional amended pleadings is within the discretion of the district court. Mertens v. Hummell, 587F 2d 862, 865 (7th Cir. 1978), citing Foman v. Davis, 371 U.S.178, 182 (1962) (dictum), cited in Zenith Radio Corp. v. Hazeltine Research, Inc., 401 U.S. 321. 330 (1971). Foman v. Davis states that leave to amend is inappropriate where there is "undue delay. . . . repeated failure to cure deficiencies by amendments previously allowed, . . . futility of amendment, etc." Foman v. Davis, 371 U.S. at 182. The district court in this

case found that the proposed third amended complaint failed to cure the feficiencies in the second amended complaint dismissed on December 5, 1980. Granting leave to amend would thereofre be futile and denial of the motion for leave to amend was within the district court's discretion. This leaves for consideration the appeal of the dismissal of appellant's second amended complaint and the appeal of the denial of appellant's motion for reconsideration of that order. We now examine in greater detail the dismissal order in reference to each defendant named by the appellant in his complaint. We turn first to the two state court judges.

III

It is clear that a judge is immune from liability under $ 1983 for judicial acts unless taken in the clear absence of all jurisdiction. Stump v. Sparkman, 435 U.S. 349, 355-56 (1978); Pierson v. Ray, 386 U.S. 547, 554 (1967). See Briscoe v. LaHue, 663 F.2d 713, 722 (7th Cir. 1981), cert. granted U.S. ___ 102 S. Ct.1708 (1982) (presiding judge at criminal trial immune from liability in action alleging judge erroneously reinstated charges against appellant after their dismissal);

Skolnick v. Campbell, 454 F. 2d 531, 533 (7th Cir. 1971); Dieu v. Norton, 411 F. 2d 761, 763 (7th Cir. 1969) (doctrine of judicial immunity not abolished by § 1983). Even allegations of malice are not sufficient to overcome this grant of immunity. Stump v. Sparkman, supra, 435 U.S. at 370, (Powell, J., dissenting). See United States ex rel. Powell v. Irving, 684 F. 2d 494, 497 (7th Cir. 1982). It is equally clear that ruling on motions and rendering judgments are judicial acts. See Lopez v. Vanderwater, 620 F. 2d 1229, 1234 n. 6 (7th Cir.), cert. dismissed, 449 U.S. 1028 (1980); Skolnick v. Campbell, 398 F. 2d 23, 25 (7th Cir. 1968).

In Stump v. Sparkman the Supreme Court noted that a "judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the 'clear absence of all jurisdiction.'" Stump, supra, 435 U.S. at 356-57, quoting Bradley v. Fisher, 13 Wall. 335, 351 (1872). This rule of judicial immunity has been followed in this Court. Jacobson v. Schaefer, 441 F.2d 127, 129 (7th Cir. 1971); Skolnick v. Campbell, 454 F.2d 531, 533 (7th Cir.1971); Berg v. Cwiklinski, 416 F.2d 929, 931 (7th Cir.1969).

Because actions alleging building code violations are within the general subject matter jurisdiction of Illinois circuit courts, Ill. Const. Art. 6 $ 9; Ill. Rev. Stat. ch 37 $ 72.25 (1981), it is clear that Judge Jorzak did not act in the "clear absence of all jurisdiction" and therefore we affirm the district court's order dismissing the complaint against Judge Jorzak.

1 With respect to Judge Whiting, however, the appellant asserts that his section 1983 claim survives a motion to dismiss asserting judicial immunity because the circuit court did not have personal jurisdiction over him when Judge Whiting entered the judgment against him. For purposes of a motion to dismiss, these allegations must be accepted as true. Cruz v. Beto, 405 U.S. 319, 322 (1972). In Rankin v. Howard, 633 F. 2d 844 (9th Cir. 1980), cert. denied sub nom. Zeller v. Rankin, 451 U.S. 939 (1981), the Ninth Circuit held that a judge who acts in the clear and complete absence of personal jurisdiction loses his or her judicial immunity. Id. at 849. The Ninth Circuit closely read the scope of the Stump opinion and ruled that although Stump might have implied that subject matter jurisdiction alone is

sufficient to confer immunity, the Supreme Court did not so hold, because no specific challenge to personal jurisdiction had been made in Stump. Rankin v. Howard, supra, 633 F. 2d. at 848 n. 10. The Ninth Circuit expressly held, however, that it is not sufficient that the court in fact lacks personal jurisdiction. Id. at 849. Rather, immunity is lost only if the judge knows that he or she lacks jurisdiction or the judge acts in the face of a clearly valid statute or case law expressly depriving the judge of jurisdiction. Id. Here, because the appellant allegs neither that Judge Whiting acted knowing that she lacked jurisdiction over the appellant nor that any clearly valid statute or case law expressly deprived Judge Whiting of personal jurisdiction over him, the district court's dismissal of the complaint against Judge Whiting must also be affirmed.

IV

With respect to the appellees McCaffrey and Murphy, it is also well-settled that in initiating and prosecuting the State's case, a prosecutor is immune from a civil suit for damages under § 1983. Imbler v. Pachtman, 424 U.S. 409, 431 (1976). Brisoe v. LaHue, supra, 663 F.2d at 721-22.

Even where malice is alleged, a state prosecutor has quasi-judicial immunity so long as he is acting within the scope of his prosecutorial discretion. Grow v. FISHER, 523 F. 2d 875, 877 (7th Cir. 1975). It is apparent that opposing motions before the Circuit court is part of the prosecutor's function. See Heidelberg v. Hammer, 577 F.2d 429, 439 (7th Cir. 1978) (allegations that prosecutors improperly conducted the prosecution cannot succeed in the face of the prosecutor's absolute immunity). With respect to appellee Quinlan, the corporation counsel can have no vicarious liability for the acts of his assistants against which the assistants themselves are immunized, Madison v. Gerstein, 440 F.2d 338, 340 (5th Cir. 1971), and the appellant alleges no direct action on appellee's Quinlan's part. McLaughlin v. City of LaGrange, 662 F.2d 1385, 1388 (11th Cir.1981), Cert. denied, ___ U.S. ____, 102 S. Ct. 2249 (1982).

Apparently no court has considered the issue of a municipality's liability under $ 1983 for the judicial acts of its officers. Municipalities would be immune from liability for judicial functions under the common law of torts. Prosser, Law of Torts, $ 131, p. 986 (4th Ed. 1971). Although it would be in keeping with the policy of reading $ 1983 in "harmony with generalsprinciples of tort immunities," Imbler v. Pachtman, supra, 424 U.S at 418,

to extend a municipality's immunity for judicial acts to claims filed under § 1983, we agree with the district court that this appellant has simply failed to state a claim upon which relief can be granted. F.R.C.P. 12(b) (6). As the district court noted, the appellant failed to allege that the city was acting pursuant to an official policy or custom which caused the constitutional violation. In Monell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978), the Supreme Court held that a municipality is liable for damages under § 1983 which "may fairly be said to represent official policy." Id. at 694. Contrary to the appellant's assertions,, Monell was reaffirmed in Owen v. City of Independence, Missouri, 445 U.S. 622, 657-58 (1980). The appellant's second amended complaint simply does not allege any policy or custom of the City of Chicago which caused a constitutional deprivation. Were we to consider the appellant's third amended complaint, it would be equally deficient, since it merely makes a conclusory allegation and does not contain the "highly specific factuall averments" required to defeat a motion to dismiss in

Civil Rights Act cases. Littleton v. Berbling, 468 F. 2d 389, 394 (7th Cir. 1972), reversed in part on other grounds, 414 U. S. 488 (1974).

VI

Lastly, because we cannot conclude that the district court's original dismissal order was improper, we also conclude that the district court did not abuse its discretion in denying appellant's motion to reconsider the dismissal. 6A Moore's Federal Practice P 59.15 (14) (2d Rev. Ed. 1982) (abuse of discretion standard applied in reviewing denial of motion for reconsideration).

As a concluding note, we should point out that any remedy available to the appellant would have been through timely appeal of the circuit court's orders, not a suit for damages under § 1983. See Stump v. Sparkman, supra, 435 U.S. at 369-70 (Powell J., dissenting). See also, United States ex rel. Powell v. Irving, 684 F. 2d 494, 497 (7th Cir. 1982) (alternative remedies other than § 1983 available to protect prisoners seeking parole). Appellant elected to file this section 1983 lawsuit instead but his complaint contains no allegation that survives a motion to dismiss. 1/

Therefore, that portion of the appeal that concerns the district court's order of January 28, 1981 is

is hereby dismissed and the district court's orders dismissing the appellant's second amended complaint and denying the appellant's motion for reconsideration are affirmed.

1/ As to the appellant's claim that no transcripts of the circuit court proceedings were provided to him, his complaint fails to allege that he ever requested such transcripts. In the Housing Court, a party must prepare a written order if he does not want to rely on the half-sheet record prepared by the Clerk of the Court. Brief of Defendants-Appellees Jorrak and Whiting at 3.

APPENDIX B - 2A

UNITED STATES COURT OF APPEALS

For the Seventh Circuit

January 13, 1983

Before

Hon. HARLINGTON WOOD, JR., Circuit Judge
Hon. RICHARD D. CUDAHY, Circuit Judge.
Hon. JESSE ESCHBACH, Circuit Judge

BENJAMIN A. RASKY, Plaintiff-Appellant	)	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 81-2046 vs.	)	
CITY OF CHICAGO, et al., Defendants-Appellees	)	No. 80 C 2821
	)	JOHN POWERS CROWLEY, Judge

ORDER

On consideration of the petition for rehearing filed in the above-entitled cause by plaintiff-appellant, Benjamin A. Rasky, all of the judges on the original panel having voted to deny the same,

IT IS HEREBY ORDERED that the aforesaid petition for rehearing be, and the same is hereby, DENIED.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BENJAMIN A. RASKY, Plaintiff, vs. CITY OF CHICAGO, a Municipal Corporation, WILLIAM R. QUINLAN, individually and as Corporation Counsel, JOHN W. McCAFFRY, JAMES MURPHY, WILLIAM BANKS, all individually and as Assistants Corporation Counsel, the Hon. RICHARD H. JORZAK, and the Hon. WILLIE M. WHITING, respectively, individually and as Judges of the Circuit Court of Cook County, Illinois, Defendants,	)	NO. 80 C 2821

MEMORANDUM OPINON AND ORDER

John Powers Crowly, District Judge

Benjamin A. Rasky brought this $1983 action against the City of Chicago (City) various attorneys from the office of the Corporation Counsel and two judges of the Circuit Court of Cook County (Circuit Court) seeking compensatory and punitive damages. Jurisidiction is asserted pursuant to 28 U.S.C. $1343. RASKY alleges that defendants, as prosecutors and presiding judges, acted improperly during various cases brought against RASKY in the Circuit Court for building code violations. These actions, RASKY contends, caused him

to lose three apartment buildings. Currently before the Court are the motions of the City of Chicago (City) defendants for judgment on the pleadings.

Rasky states that when the City brought actions against him for operating apartment buildings in violation of Chicago's Building Code, he attempted to implead tenants living in the buildings and contractors hired to repair the buildings, claiming that these parties were responsible for the unsafe and unsanitary conditions which were the basis of the actions. The City opposed the motions which were eventually denied. Rasky alleges that because his motions were not granted, he was unable to Operate his buildings economically and, as a result, was forced to sell two of the buildings at a loss and lose the third through mortgage foreclosure. Rasky also alleges that, despite the fact that he fully discharged all fines and claims with respect to these three buildings and retains no legal or equitable interest in them, defendants continue to maintain actions against him in connection with these buildings.

In support of its motion to dismiss, the City defendants raise several arguments. First, they contend that their actions did not deprive Rasky of any right secured by the Constitution or federal law. Second, they allege that

Assistant Corporation Counsel, as prosecuting attorneys, enjoy absolute immunity because they were acting within the scope of their official duty. Next, the City defendants claim that there is no allegation of direct action by the City or William Quinlan, the Corporation Counsel, and maintain that, under Monell v. New York City Department of Social Services, 436 U.S. 658 (1978), there is no liability for the actions of subordinates under the theory of respondent superior. Similarly, the Cook County defendants allege that the state judges have absolute immunity for judicial acts in cases over which they have subject matter jurisdiction.

This Court has serious doubts as to whether the complaint alleges facts sufficient to support a claim under §1983. However, it is unnecessary to address the adequacy of the allegations because under the circumstances here, defendants are insulated from damage liability. There can be no dispute that absolute immunity protects judges from liability for judicial acts, Dennis v. Sparks, 49 U.S.L.W. 3172 (U.S. Nov. 18, 1980) (No. 79-1186); Bradley v. Fisher, 13 Wall 335 (1872) and that judicial acts are those acts normally performed by judges which relate to the judicial process and are subject to appeal. Stump v. Sparkman, 435 U.S. 349 (1978). Rasky complains that the judges improperly denied his motions and refused to enter appropriate orders. These are acts committed within the scope

of judicial discretion. Thus, even if Rasky's allegations that the judges acted with flawed judgment or committed procedural errors in the exercise of their authority are true, there can be no damage liability under §1983. Stump v. Sparkman, 435 U.S. 349 (1978).

Immunity from civil liability extends also to prosecutors. Imbler v. Pachtman, 424 U.S. 409 (1976). Attorneys enjoy official immunity when pursuing a prosecution and presenting the case in court. Daniels v. Kieser, 586 F. 2d 64 (7th Cir.), cert. denied 441 U.S. 931 (1978); McDonald v. State of Illinois, 557 F. 2d 596 (7th Cir.), cert. denied 434 U.S. 966 (1977). Further, the supervising attorney is not vicariously liable for immunized acts of his assistants. See Madison v. Gerstein, 440 F. 2d 338 (5th cir. 1971). Rasky's allegations concerning the acts of Assistant Corporation Counsel relate solely to initiating and conducting judicial proceedings; the complaint does not allege any direct action on the part of the Corporation Counsel. Since the assistants were functioning within the scope of their official duty and the corporation counsel did not actively participate in the litigation, the Corporation Counsel and his assistants are protected by the doctrine of absolute immunity.

The last issue is whether the City of Chicago is a proper defendant. Rasky argues that under Owen v. City of Independence, Missouri, 100 S. Ct. 1398 (1980) the City of Chicago is not

immune from liability under §1983. Plaintiff ignores the fact, however, that a valid claim against the City must be supported by an allegation that the City was acting pursuant to an official policy or custom which caused the constitutional deprivation; the City cannot be liable on the basis of respondeat superior. Monell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978). The complaint contains no such allegations of an official policy or custom.

Accordingly, the complaint fails to state a claim upon which relief can be granted. The motion of the City defendants to dismiss is granted. Treating the motion of Cook County defendants for judgment on the pleadings as a motion to dismiss, this motion is also granted.

John Powers Crowly
United States District Judge

DATED: December 5, 1980.

The complaint fails to state a claim upon which relief can be granted. The motion of the City defendants to dismiss is granted. Treating the motion of the Cook County defendants

for judgment on the pleadings as a motion to dismiss, this motion is also granted. (DRAFT)

Plaintiff given to February 6, 1981 to file memorandum in a support of oral motion to reconsider.

APPENDIX D 4A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Presiding Judge, Honorable JOHN POWERS CROWLEY

Cause No. 80 C 2821 January 27, 1981

Title of Cause: BENJAMIN A.RASKY vs. CITY OF CHICAGO

Motion of Plaintiff to vacate Order of December 5, 1980 dismissing Plaintiff's Complaint and for Leave to File Third Amended Complaint at Law Instanter

BENJAMIN A. RASKY, Pro Se, 5104 W. Weber Lane, Skokie, Illinois 60077

Representing Plaintiff

RICHARD M. DALEY, State's Attorney Cook County by MICHAEL BACCASH, Asst., Room 500 Richard J. Daley Center, Chicago 60602, representing Judges RICHARD H. JORZAK and WILLIE WHITING, WILLIAM R. QUINLAN, Corporation Counsel of the City of Chicago by Assistant DANIEL C. WELTER, Room 511 City of Chicago, 60602, Representing City of Chicago, WILLIAM R. QUINLAN, Corp. Counsel, JOHN W. McCaffrey and JAMES MURPHY, Assistants Corporation Counsel.

Hearing on plaintiff's motion to vacate the order of December 5, 1980, held. For the reasons stated in open Court, plaintiff's motions to vacate the Order of December 5, 1980 and for leave to file a Third Amended Complaint are denied.

APPENDIX D - 4B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Presiding Judge, Honorable JOHN POWERS CROWLEY

Cause No. 80 C 2821 May 28, 1981

Title of Cause: Benjamin A. Rasky vs.
City of Chicago

Plaintiff's Motion For Reconsideration

is Denied.

NO.

IN THE SUPREME COURT OF THE UNITED STATES

BENJAMIN A. RASKY, Petitioner,
Plaintiff-Appellant,

-v-

CITY OF CHICAGO, a Municipal Corporation, et al., Respondents
Defendants-Appellees.

NOTICE OF FILING PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT CHICAGO, ILLINOIS

TO: Stanley J. Garber, Corporation Counsel of the City of Chicago, City Hall, Chicago, Illinois 60602
Richard M. Daley, State's Attorney of Cook County, Daley Civic Center, Chicago, Illinois 60602, Attorneys for Defendants

YOU ARE HEREBY NOTIFIED that on April 7, 1983, I filed a Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit, Chicago.

DATED: April 7, 1983

Benjamin A. Rasky

BENJAMIN A. RASKY, Pro Se
Attorney at Law
5104 West Weber Lane
Skokie, Illinois 60077